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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

SEAN COLLINS,

Defendant and Appellant.

H045805

(Santa Clara County

Super. Ct. No. B1686591)

I. INTRODUCTION

Defendant Sean Collins pleaded no contest to two counts of second degree burglary (Pen. Code, §§ 459-460, subd. (b))¹ and admitted the allegations that he committed the offenses for the benefit of a criminal street gang (§ 186.22, subd. (b)(1)(A)). The trial court sentenced defendant to four years.

On appeal, defendant's appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) that states the case but raises no issue. We notified defendant of his right to submit written argument on his own behalf within 30 days. That period has elapsed and we have received no written argument from defendant.

Pursuant to *Wende, supra*, 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*), we have carefully reviewed the entire record. We agree with defendant's

¹ All further statutory references are to the Penal Code unless otherwise indicated.

appellate counsel that there is no arguable issue on appeal. Therefore, we will affirm the judgment.

II. FACTUAL AND PROCEDURAL BACKGROUND

Following the California Supreme Court's direction in *Kelly, supra*, 40 Cal.4th at page 110, we provide a brief description of the facts and the procedural history of the case.

On March 10, 2016 at approximately 10:28 a.m., an Apple store employee reported to Los Gatos police that two black males entered the store, grabbed 15 iPhones, and fled.² Defendant was later identified by a police officer in the Oakland Police Department's gang unit after a flyer regarding the offense was sent out to law enforcement.

On May 24, 2016 at approximately 12:51 p.m., an Apple store employee reported to Palo Alto police that three black males entered the store and stole 18 iPhones and an iPad. One of the phones was later tracked to a Metro PCS store in Oakland, where two men tried to sell it to the shop owner. Police identified defendant as one of the men after viewing the store's surveillance video and located him at a residence in Oakland.

On June 14, 2016, defendant was charged with one count of grand theft (§§ 484-487, subd. (a)) committed on May 24, 2016. On March 24, 2017, the complaint was amended to charge defendant with two counts of second degree burglary (§§ 459-460, subd. (b)) committed on May 24, 2016 and March 10, 2016. The first amended complaint also alleged that defendant committed the crimes for the benefit of a criminal street gang (§ 186.22, subd. (b)(1)(A)).

On March 24, 2017, pursuant to a negotiated plea, defendant pleaded no contest to both counts of burglary and admitted the gang allegations. The trial court released

² The factual background is based on the information in the probation report.

defendant from custody and ordered him to meet with pretrial services. Defendant failed to report to pretrial services as ordered and was later arrested and remanded into custody.

On March 23, 2018, the trial court heard and denied defendant's motion to withdraw his plea. On March 29, 2018, the trial court sentenced defendant to four years' state prison and ordered him to pay various fines and fees. The abstract of judgment states that defendant received 1,732 days of custody credits.

Defendant filed a timely notice of appeal and requested a certificate of probable cause, which was granted. In the request, defendant indicated that he would contend on appeal that his plea was not made knowingly and voluntarily.

III. DISCUSSION

Having carefully reviewed the entire record, we conclude that there are no arguable issues on appeal. (*Wende, supra*, 25 Cal.3d at pp. 441-443.)

IV. DISPOSITION

The judgment is affirmed.

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

MIHARA, J.

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